



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, ILLINOIS 60604**

DATE: DEC 31 2019

SUBJECT: CLEAN AIR ACT INSPECTION REPORT
RCD Performance, LLC, East Peoria, Illinois

FROM: Sarah Clark, Environmental Engineer
AECAB (IL/IN)

THRU: Natalie Topinka, Acting Section Chief
AECAB (IL/IN)

TO: File

BASIC INFORMATION

Facility Name: RCD Performance, LLC (RCD)

Facility Location: 1360 Spring Bay Rd, East Peoria, Illinois, 61611

Date of Inspection: December 13, 2019

EPA Inspectors:

1. Sarah Clark, Environmental Engineer
2. Ethan Chatfield, Environmental Engineer

Other Attendees:

1. Bill Mims, Accountant, outside CPA
2. Tim Twardowski, Counter Sales, NAPA
3. Josh Davis, Owner, RCD

Contact Email Address: josh@rivercitydiesel.com, josh@rcdperformance.com,
sales@rcdperformance.com

Purpose of Inspection: Clean Air Act (CAA) mobile source inspection. After investigating River City Diesel, LLC, EPA issued River City Diesel, LLC a Finding of Violation (FOV) on March 12, 2019 for violations of CAA 203(a)(3)(B). The FOV was refused and returned to EPA. EPA issued a CAA Information Request on October 29, 2019 to Mr. Davis and the other business entities located at 1360 Spring Bay Road, East Peoria, Illinois, including RCD. According to USPS tracking results, the CAA Information Request was also refused. The

purpose of the inspection was, in part, to ensure proper delivery of the FOV and Information Request to the owner/operator of RCD.

Facility Type: Motor vehicle and engine parts retail store.

Regulations Central to Inspection: CAA 203(a)(3) "The following Acts are prohibited – (B) for any person to manufacture or sell, or offer to sell, or install, any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine, where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this subchapter, and where the person knows or should know that such part or component is being offered for sale or installed for such use or put to such use."

Arrival Time: 10:07 AM

Departure Time: 10:40 AM

Inspection Type:

- ☒ Unannounced Inspection
- ☐ Announced Inspection

OPENING CONFERENCE

- ☒ Credentials Presented
- ☐ CBI warning to facility provided

EPA was denied access to RCD's facility. There was no opportunity to discuss CBI or present the CBI warning. The process description information was obtained online at the sources cited below. The staff interview information was obtained verbally from Mr. Mims, Mr. Davis, and Mr. Twardowski as noted below. At this inspection, Mr. Twardowski identified himself as a NAPA Counter Sales representative. At a previous CAA Inspection conducted on January 11, 2018, Mr. Tim Twardowski had identified himself to EPA as an Operations Manager.

Process Description:

According to the "About RCD Performance" page on the RCD website "rcdperformance.com," the RCD Distribution Center is located at 1360 Spring Bay Road, East Peoria, Illinois, 61611. This page also describes RCD as follows: "RCD Performance, LLC, consists of individuals who know aftermarket performance.... We are not like so many other sellers that just drop ship from the manufacturer. We install and test what we sell.... We have installed and dyno tested all of our parts. Tell us your horsepower goals and we can put together a package for your needs. If you don't see it on the site, just give us a call."

According to the "Contact" page on the RCD website, RCD is headquartered in Punta Gorda, Florida. According to the Florida Department of State online database, Mr. Davis is the registered agent for RCD Performance, LLC. The principal address is 17208 Barcrest Ln, Punta Gorda, Florida, 33955. The mailing address is 711 W Moss Ave, Peoria, Illinois, 61606.

According to the Illinois Secretary of State (SOS) online database, Mr. Davis is the registered agent and/or LLC manager for numerous other companies that all operate, or have operated, at 1360 Spring Bay Road, East Peoria, Illinois. These companies include the following:

- 1) J.L. Davis Enterprises, LLC, registered October 6, 2012;
- 2) Midwest Truck and 4WD Center LLC, registered October 19, 2012;
- 3) MWT4WD LLC, registered December 13, 2018;
- 4) RCD Auto Parts, LLC (assumed name is East Peoria NAPA), registered October 29, 2012;
- 5) RC Distribution, LLC registered November 23, 2018; and
- 6) River City Machine, LLC, registered October 12, 2012.

Mr. Davis was also the registered agent for River City Diesel, LLC, registered February 19, 2009, until the company was terminated, which according to the Illinois SOS database, occurred on January 2, 2019.

Staff Interview:

At approximately 10:15 AM, we entered the main entrance of the larger RCD building into a NAPA storefront. We asked the employee at the counter (who later identified himself as Tim Twardowski) if Josh Davis was on site. Mr. Twardowski responded that he was unsure, but would check. As he began to walk away, he was stopped abruptly by an individual (who later identified himself as a Mr. Bill Mims) who was exiting the warehouse. Mr. Mims claimed he had spoken to Josh that morning and that Josh was not on site. We identified ourselves as EPA CAA inspectors and presented our credentials to both Mr. Mims and Mr. Twardowski. Mr. Twardowski returned to his office. Mr. Mims identified himself as an outside CPA.

We informed Mr. Mims that we were there to conduct an unannounced CAA inspection of the facility and explained our authority under the CAA. Mr. Mims told us that he was "aware of the situation." Mr. Mims accused EPA of "shaking down small businesses" and that it was "reprehensible." Mr. Mims walked to the door at the main entrance, held it open, and instructed EPA to leave immediately. We asked if Mr. Mims worked directly for the company. Mr. Mims replied "no." We explained to Mr. Mims that because he was not a representative of RCD, we could not accept his denial of access to inspect RCD's facility. We asked if there was a manager available to speak with us directly. Mr. Mims stated that there was "no one on site that is authorized to talk to EPA." We asked if Mr. Mims could call Mr. Davis.

Mr. Mims returned behind the counter, and at approximately 10:18 AM, Mr. Mims dialed an unknown number on his cell phone. We were unable to observe the number that Mr. Mims had dialed, and we could not hear the other end of the conversation. We asked Mr. Mims to put the call on speakerphone, but Mr. Mims did not do so. After speaking briefly with someone Mr. Mims identified as Mr. Davis, Mr. Mims told us that Mr. Davis said that he is not going to be back today and does not want to talk to anyone from EPA unless he has a lawyer with him. Mr. Mims indicated that we could show ourselves outside; he then turned around and left out of the warehouse door. We called out to Mr. Twardowski who was still in his office that we would step out for a moment and that we would be back shortly.

At approximately 10:19 AM, we called our Office of Regional Counsel.

At approximately 10:30 AM, we returned to the RCD facility/NAPA store and re-approached the counter. We told Mr. Twardowski that to be denied entry we needed to hear from Mr. Davis directly or from another manager or representative of the company. Mr. Twardowski returned to his office to call Mr. Davis privately. He then returned to the counter and said that he would dial Mr. Davis from the counter phone. Mr. Twardowski called Mr. Davis, put the phone on speaker so we could communicate directly with Mr. Davis, and returned to his office.

Phone Call with Mr. Davis:

We asked the man on the phone to confirm his identity. The man confirmed that he was Josh Davis.

Mr. Davis stated several times throughout the call that he “would like to be there,” and that he “would like to have my [his] attorney present.” Mr. Davis said that his attorney would not be available until after Christmas. He said that “every time I talk to EPA, it’s an interrogation, so I just don’t want to talk to EPA without counsel.”

We informed Mr. Davis that we had copies of a FOV and a CAA Information Request that had failed to be delivered to his facility and that we would like to hand-deliver these documents to someone at the facility. Mr. Davis instructed us to leave these documents with the man at the counter and said that he (Mr. Davis) would forward them to his attorney. Mr. Davis confirmed that the name of the man to whom we should deliver the documents was Tim Twardowski.

Inspector Chatfield asked Mr. Davis: “To confirm, you are not able to grant us access to the premises today?” Mr. Davis responded: “Yes. I’m not there.” Inspector Chatfield asked: “Is there anyone else who can talk to us or show us around?” Mr. Davis responded: “No. I’d like to be there.” We informed Mr. Davis that his refusal to give us access today would be considered a “denial of access.” In addition, we informed Mr. Davis that due to our inability to reach the company and obtain a response to our information request, EPA had to refer this matter to the Department of Justice. We made Mr. Davis aware that denying EPA inspectors access to the facility could have additional ramifications, to which Mr. Davis responded that he would prefer to have an attorney present.

Mr. Davis then stated that: “We don’t manufacture any of those products anymore. It’s been a long time since we did any of that.”

We asked if Mr. Davis could provide the contact information for his attorney. Mr. Davis provided his attorney’s name and phone number. We said that our counsel may reach out to his attorney directly.

We thanked Mr. Davis for speaking with us and told him that we would leave our business cards. We said that Mr. Davis and his attorney could contact us if they have any questions or if they would like to meet with us.

The call ended at approximately 10:40 AM.

After speaking with Mr. Davis, we met with Mr. Twardowski again. Mr. Twardowski confirmed the spelling of his name and stated that his title should be recorded as 'NAPA counter sales.' Mr. Twardowski provided a manila envelope for the documents and requested that we seal it with the documents (the FOV, the CAA Information Request) and our business cards. He said that he would leave the envelope in Mr. Davis's office and walked to the other side of the store. We completed and photographed the Certificate of Service for the record (see photo 9).

We left the facility at 10:45 AM.

TOUR INFORMATION

EPA toured the facility: Yes, building exterior and surrounding (ungated portion) of the parking lot only.

Data Collected and Observations:

At approximately 10:07 AM, we drove onto the RCD parking lot. We took photos of the parking lot and the RCD facility exterior (photos 1-8). The facility consisted of two buildings, one larger building to the south (with an entrance facing south) and one smaller building to the north. The larger building had a "NAPA Auto Parts" sticker on the glass doors of the south-facing main entrance and a NAPA Auto Parts sign near the roof along its west side. The smaller building had no distinguishing markers or logos. On the larger building, we observed at least six garage doors along the east side and two garage doors along the west side. On the smaller building, we observed at least three garage doors along the south side. There was a gated chain-link fence surrounding the lot on the east side of the property and an open lot situated along the south and west sides of the property. From our vantage point, we counted 17 vehicles parked along the east side, 8 vehicles parked along the south side, and at least 20 vehicles parked along the west side. The majority of the vehicles we observed were pick-up trucks with license plates.

Photos and/or Videos: were taken during the inspection.

Field Measurements: were not taken during this inspection.

CLOSING CONFERENCE

See Staff Interview section.

SIGNATURES

Report Author: Sarah Clark Date: 12/30/2019

Section Chief: Natalie M. Pri Date: 12/31/19

Facility Name: RCD Performance, LLC

Facility Location: 1360 Spring Bay Rd, East Peoria, Illinois

Date of Inspection: December 13, 2019

APPENDICES AND ATTACHMENTS

1. **Appendix A:** Digital Image Log

Facility Name: RCD Performance, LLC
Facility Location: 1360 Spring Bay Rd, East Peoria, Illinois
Date of Inspection: December 13, 2019

APPENDIX A: DIGITAL IMAGE LOG

1. Inspector Name: Sarah Clark	2. Date of Inspection: December 13, 2019
3. Company/Facility Name: RCD Performance, LLC	4. Street Address, City, State: 1360 Spring Bay Rd, East Peoria, Illinois
5. Number of Images: 9	6. Archival Record Location: CD-R Labelled as, "RCD Performance, Inspection 12-13-2019 Photos, 1360 Spring Bay Rd., East Peoria, IL"

Image Number	File Name	Date and Time (CST)	Latitude and Longitude	Description of Image
1	PC130007.JPG	2019:12:13 10:07:14	Not Recorded	Entrance to fenced in east lot
2	PC130008.JPG	2019:12:13 10:07:16	Not Recorded	Main entrance to larger building; NAPA Auto Parts logo on glass door
3	PC130009.JPG	2019:12:13 10:08:55	Not Recorded	South parking lot
4	PC130010.JPG	2019:12:13 10:09:03	Not Recorded	Main entrance to larger building; NAPA Auto Parts logo on glass door
5	PC130011.JPG	2019:12:13 10:09:22	Not Recorded	Fenced in east lot
6	PC130012.JPG	2019:12:13 10:12:05	Not Recorded	West side of larger building and NAPA Auto Parts sign
7	PC130013.JPG	2019:12:13 10:12:11	Not Recorded	West parking lot
8	PC130014.JPG	2019:12:13 10:12:31	Not Recorded	West parking lot
9	PC130015.JPG	2019:12:13 10:48:22	Not Recorded	Completed Certificate of Service

*Camera Error: GPS activated but coordinates were not recorded.